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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,409	01/03/2002	Karl W. Kreckel	54928US002	8969

32692 7590 01/14/2005

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EXAMINER
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AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/030,409

Applicant(s)

KRECKEL, KARL W.

Examiner

Nasser Ahmad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-2 ans 12-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 12-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 2, 2004 has been entered.

### ***Rejections Maintained***

2. Claims 1-2 and 12-21 are rejected under 35 USC 103(a) as being unpatentable over Hilding for reasons of record in the Office Action of September 2, 2004 and February 12, 2004.

3. Claims 1-2 and 12-21 are rejected under 35 USC 103(a) as being unpatentable over Holt for reasons of record in the two Office Action.

### ***Response to Arguments***

4. Applicant's arguments filed November 2, 2004 have been fully considered but they are not persuasive.

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Applicant argues that Hilding fails to teach a bottom face bearing an exposed skid – resistant layer that defines a uniform bottom surface of the note pad and the support member (18) and support (20) are not skid resistant. These are not deemed to be persuasive because, contrary to applicant's allegation and as explained in the last Office Action of September 2, 2004, Hilding shows a bottom surface with exposed skid-resistant layer (16). As can be seen from the drawings, the bottom surface and the skid-resistant layers are found to be uniform. The bottom surface of the skid-resistant layer is uniform and is provided with additional elements thereon as shown in figure-3 and the invention as claimed fails to preclude the presence of said elements. As for the support member (18) and support (20), they are found to be additional elements as mentioned above. Applicant has failed to show that the presence of the additional elements would not render the layer (16) skid-resistant. In fact, applicant's acknowledgement is noted that the presence of the additional elements provide for a "low coefficient of friction" and it will provide for skid-resistant characteristics. In response to the argument that Hilding does not include a motivation or suggestion to modify the exposed layer to include a skid-resistant layer that defines a uniform bottom surface, the above grounds of explanation apply *a fortiori* herein.

Regarding arguments about the applied Holt reference, applicant has failed to show any evidentiary support that Holt's base layer (30) would not exhibit the static coefficient of friction of at least one (1). As for the argument by the applicant that Holt's pad does not require application of vertical pressure when used with a mouse, applicant is informed that the intended use of the claimed product is not deemed to be of positive limitation

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and cannot be used for the purpose of avoiding the applied prior art. Assuming arguendo, that the Holt's base layer (30) would require vertical pressure in order to function as a skid-resistant layer, again applicant's attention is drawn to the fact that said base layer includes a plurality of sheets that is used for writing notes and hence, would result in the application of vertical pressure.

With regard to peel adhesion, the above ground of explanation pertaining to the skid-resistant characteristics apply *a fortiori* herein.

Contrary to applicant's position that the level of adhesion of the instant claimed invention would be different from that of Holt's note pad, again applicant has failed to show any evidentiary support that Holt's base layer would not exhibit the coefficient of friction of at least one (1).

Applicant should note that the "ways of using the device in Holt are different that the present invention" is directed to an intended use phrase and is not given patentable weight because intended use phrase is not found to be of positive limitation for the note pad as claimed.

Thus, in the absence of any evidence to the contrary, it remains the examiner's position that the claimed invention would have been obvious to one having ordinary skill as discussed above.

***Conclusion***

5. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

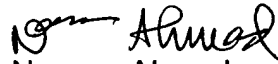
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-

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1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Nasser Ahmad  
Primary Examiner  
Art Unit 1772

N. Ahmad.  
January 12, 2005.